



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

December 14, 2005

SUBJECT: **2005-1073** - Application for located at **383 Stowell Avenue** (near Maude Ave) in an R-0 (Low-Density Residential) Zoning District.

Motion Use Permit for an Accessory Utility Building (Arbor) located between the face of the building and the street and a Variance from Sunnyvale Municipal Code section **19.34.030** for a 17-foot front-yard setback where 20 feet is required.

REPORT IN BRIEF

Existing Site Conditions Single Family Home with the subject feature already constructed

Surrounding Land Uses

| | |
|-------|--------------------|
| North | Single Family Home |
| South | Single Family Home |
| East | Single Family Home |
| West | Single Family Home |

Issues Variance Findings and design compatibility

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



PROJECT DATA TABLE

| | EXISTING | PROPOSED | REQUIRED/ PERMITTED |
|-----------------------------------|-------------------------|------------------|--------------------------------|
| General Plan | Residential Low Density | Same | Residential Low Density |
| Zoning District | R-0 | Same | R-0 |
| Lot Size (s.f.) | 5,200 | Same | 6,000 min. |
| Gross Floor Area (s.f.) | 1,564 | Same | 2,340 max. |
| Lot Coverage (%) | 30.1% | Same | 45% max. |
| Floor Area Ratio (FAR) | 30.1% | Same | 45% max. without PC review |
| Building Height (ft.) | 15'-4" | Same | 30' max. |
| No. of Stories | 1 | Same | 2 max. |
| Setbacks (Facing Property) | | | |
| Front (ft.) | 27' to home | 17 feet to Arbor | 20' min. |
| Left Side (ft.) | 5' (10' total) | Same | 4' min. (12' total min.) |
| Right Side (ft.) | 5' (10' total) | Same | 4' min. (12' total min.) |
| Rear (ft.) | 33'-2" | Same | 20' min. |
| Parking | | | |
| Total Spaces | 2 | Same | 2 min. |
| Covered Spaces | 1 | Same | 1 min. |

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS**Description of Proposed Project**

The application concerns a vertical feature constructed as a projecting trellis supported by two posts, similar to an arbor. The feature is generically referred to as an accessory utility building by the zoning code and as such requires a Use Permit for its placement between the face of the building and the street and a variance for its location at 17 feet from the front property line where a minimum of 20 is required.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

| File Number | Brief Description | Hearing/Decision | Date |
|-------------|--------------------------------------|------------------|------------|
| 2005-0779 | Variance Side and Rear yard addition | Admin/Approved | 08/04/2005 |

As a result of the design review and variance for the addition earlier this year, the applicant was required to obtain permits for the subject feature in the front yard.

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor additions and accessory buildings.

Variance/Use Permit

This application is for a feature that does not clearly fit the definitions and descriptions of a variety of zoning code standards for development of private property. After reviewing various options, the proposed feature has been classified as an accessory utility building due to the overhanging cover of the design and the interpretation that is considered providing coverage and thus square footage as a structure. Alternatively, the feature could also be interpreted as vertical feature (fence) without a roof rather than as a structure due to the unsupported projecting open pattern roof design of the object. If the Administrative Hearing Officer interpreted the feature to be a fence, the object would still require a use permit but would no longer require a variance. Discussion below about the design for the Use Permit would be pertinent to either interpretation.

Site Layout: The feature consists of two posts situated perpendicular to the street and with a variable height and open beam pattern covering. It is approximately eight feet wide, ten feet deep, and seven feet in height. The feature sets on a plank deck that is located in front of the home. The post closest to the street is located at approximately 17 feet from the front property line where 20 is required. About 60% of the structure is outside of the 20-foot front yard setback area. The total area of the accessory structure excluding overhangs is five square feet with 1.7 square feet in the front yard setback. The two posts are about six feet from the side yard with a four foot overhang that extends two feet into the required side yard. The feature is in conformance with side yard setback requirements.

Architecture: The proposed accessory structure is of wood construction and features treated wood as its aesthetic finish. Traditionally, treated wood is considered a complimentary style and finish to most home types in Sunnyvale and staff believes the material type is compatible with the home and does not require changes to be of identical color and finish to the home. The design has an open character as a trellis roof covering with an open beam pattern and slight variation in height of the beams. The structure is supported by two posts without a connecting wall, which also contribute to the open design nature of the structure.

The following Guidelines were considered in the analysis of the project.

| Single Family Design Techniques | Comments |
|--|---|
| <i>3.10 B. Accessory structures should use the same wall, roof, and trim materials of the main house</i> | The proposed structure wood constructed an treated wood finish is complimentary and preferred as a garden/natural feature for the yard rather than as an accessory use. |
| <i>Community Design Element Fences and Walls E4. Front yard fences should be an open decorative type fences, such as picket, post, and rail are preferred.</i> | The feature is similar to a fence and consists of very open design with only two post and extends for eight feet perpendicular to the front property line. |

Compliance with Development Standards/Guidelines:

Variance: In regards to the feature as a structure, accessory utility buildings are required to comply with setback requirements of the underlying zoning unless otherwise specifically permitted in the language of the zoning code. The feature has a de minimus area of 1.7 square feet as an accessory structure due to the description in Section 19.040.020 H which exempts overhangs from the calculation of square footage; however, no exemption specifically based on square footage is in the zoning code and the posts supporting the overhanging covering area are considered a structure with a roof which needs to comply with the 20-foot front yard zoning setback.

The applicant has requested a variance for the front yard setback of the structure. All three findings must be made for the approval of a variance, staff discusses the applicant's justification below. The applicant's actual written justification can be found in Attachment "D."

The first finding for approving a variance discusses whether a unique or exceptional circumstance is attributable to the use or the site. The applicant contends that the nonconforming status of the current site's lot area is an exceptional circumstance restricting the ability of the property owner to improve and enjoy their property. Staff does not believe the lot area and width

of the lot is a relevant issue to the proposed structure and does not provide an exceptional or unique situation attributable to the property or use. The existing home is in compliance with the 20-foot front yard standard and in fact a substantial portion of the feature is beyond the 20-foot front yard setback. The issue of side yard setbacks is not relevant to the permit for a variance to front yard setbacks.

However, staff does believe that the exceptional situation of the size of "use," meaning type of building, can be supported. The attributes of the feature are such that it does enclose space and has minimal area of 1.7 square feet between its two posts in the front yard. The small size of the feature and its construction design of two freestanding posts is exceptional for an accessory utility building.

The second variance findings relates to ensuring that granting of a variance is not detrimental to adjoining properties and uses. The applicant believes the existing feature is attractive and does not infringe on the use of surrounding properties. The proposed feature is very similar to a fence and in fact is reviewed for neighborhood design compatibility as part of the Use Permit portion of the application. Staff agrees that the open design and relatively low height of seven feet is complimentary to the subject site and does not detract from neighborhood character or use of property.

The third finding for a variance relates to the meeting the intent of the zoning ordinance and not granting special privileges. The intent of the ordinance for a front yard setback is primarily an issue of providing open space and contributing to community character. The applicant believes the design enhances the appearance of the home and character of the area and meets the intent of the ordinance. Also the actual encroachment of the structure is de minimus and does not impact the surroundings. Staff concurs that due to the design of the structure as a vertical feature with complimentary wood materials that the feature meets the intent of the ordinance for contributing to character and maximizing open area. The Use Permit review of the application for design review sees the feature designed as similar to a fence which is intended to provide both character to a property as well as modest level privacy, which structure does accomplish.

Use Permit: In regards to the use permit the findings can be made that the type of structure is compatible with the site and the neighborhood. In the alternative that all three of the variance findings cannot be made, staff proposes a modified design is approvable through as a Use Permit. The Use Permit review would allow for conditional approval of the feature as either being shortened in depth with the column being located outside the front yard or rotating the design of the structure at the same size that runs parallel to the home but its columns are located outside of the 20-foot setback.

Expected Impact on the Surroundings: As discussed in the variance findings, the proposed structure will not have significant impacts on adjoining properties due to the design features as well due to the fact dense landscaping exists along the front property line partially obscuring the view of the structure from the street.

Public Contact

| Notice of Public Hearing | Staff Report | Agenda |
|---|--|--|
| <ul style="list-style-type: none"> Published in the <i>Sun</i> newspaper Posted on the site 8 notices mailed to property owners and residents adjacent to the project site | <ul style="list-style-type: none"> Posted on the City of Sunnyvale's Website Provided at the Reference Section of the City of Sunnyvale's Public Library | <ul style="list-style-type: none"> Posted on the City's official notice bulletin board City of Sunnyvale's Website Recorded for SunDial |

We have received four written letters and postcards supporting the applicant's project.

Conclusion

Findings and General Plan Goals: Findings and General Plan Goals are located in Attachment A.

Staff was able to make the required Findings based on the justifications for the Variance. In addition Staff was able to support the Use Permit for the feature as a structure located between the face of the building and the street or alternatively as a seven-foot high fence. However, if the Administrative Hearing Officer is able to make the required findings for the variance or interprets the structure to be in fact a fence, staff is recommending the Conditions of Approval that can also be found in Attachment B.

If the variance is not approved the applicant may modify the design to comply with the front yard setback requirement of 20 feet if they choose. Conditions of approval found in Attachment B address the requirements to modify or remove the structure to Comply with the denial of the variance.

Alternatives

1. Approve the Variance and Use Permit with modified conditions.
2. Deny the Variance and approve a modified Use Permit with attached conditions.
3. Do not approve the Variance or Use Permit.

Recommendation

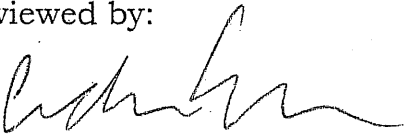
Recommend Alternative 1

Prepared by:



Kelly Diekmann
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant
- E. Letters from Other Interested Parties

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

Due to the nature of the use with its de minimus amount of square footage without enclosing area, the use proposed is exceptional as compared to other forms of accessory utility buildings. The ordinance would then deprive the applicant from including a decorative feature into the design of a front patio of their home.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

The Finding is made based on the design attributes and minimal height of the feature and that it is compatible with the neighborhood and is not detrimental to the surrounding area.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The Finding is made that the intent of the ordinance is regulation of aesthetics, open space, and character. Due to the design of feature and the de minimus area of the structure encroaching into the setback coupled with the existing dense landscaping that obscures the visibility of the structure from the street the feature fulfills the intent of the front setback standard.

Recommended Conditions of Approval - Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. General Conditions for Use Permit with Denial of Variance

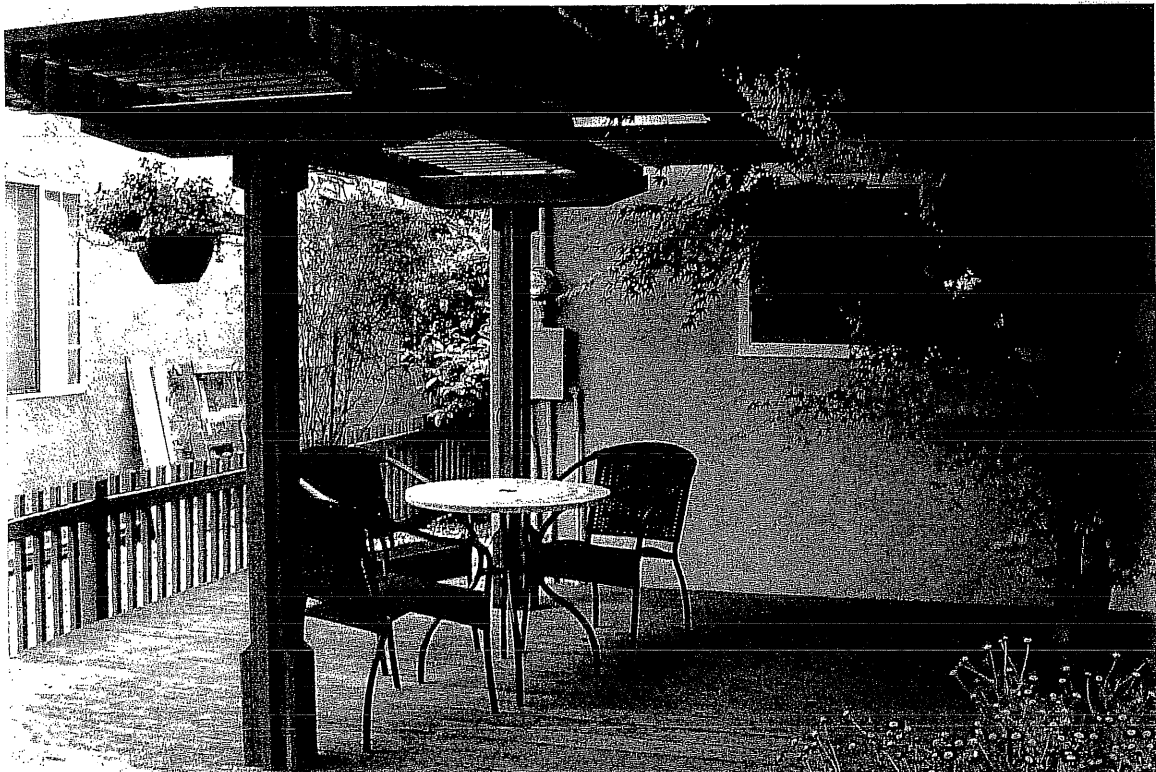
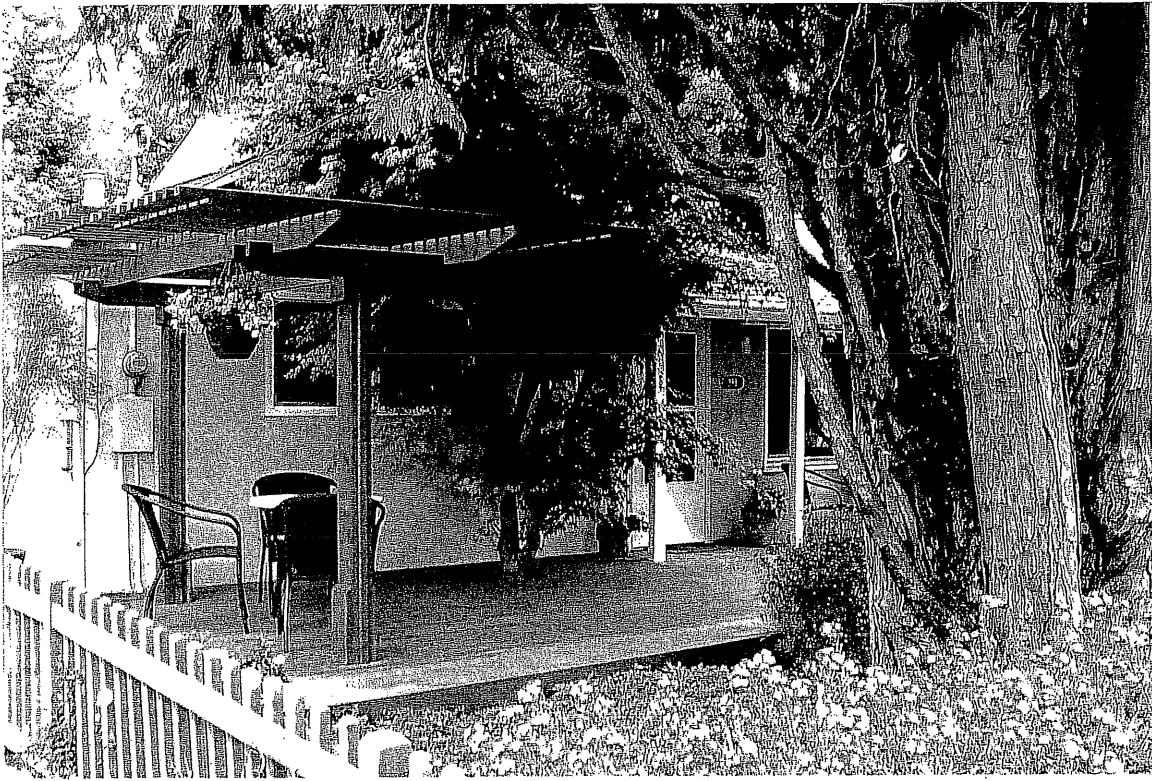
A. Within 30 days from the final date of approval, modify the layout of the structure to comply with front yard setback of 20 feet. The modified design may include rotating the layout of the structure to be parallel to the home.

B. The final design of the structure shall be similar to that of the existing structure with an open trellis design and wood finish.

C. Obtain a building permit for the final design if it exceeds six feet in height.

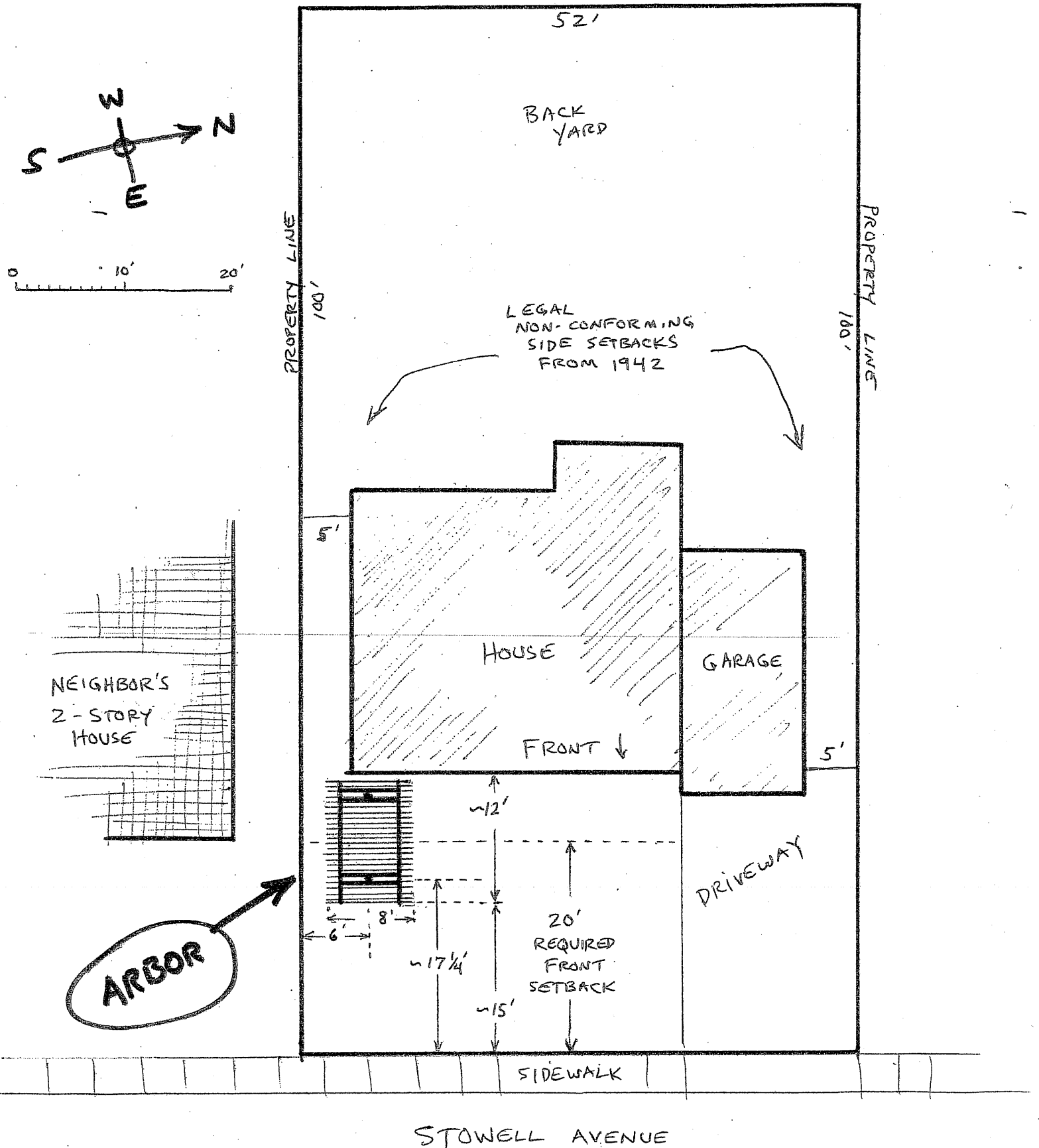
2. General Conditions for Use Permit with Approval of Variance or dismissal of Variance requirement.

A. Within 30 days from the final date of approval obtain a building permit for feature.



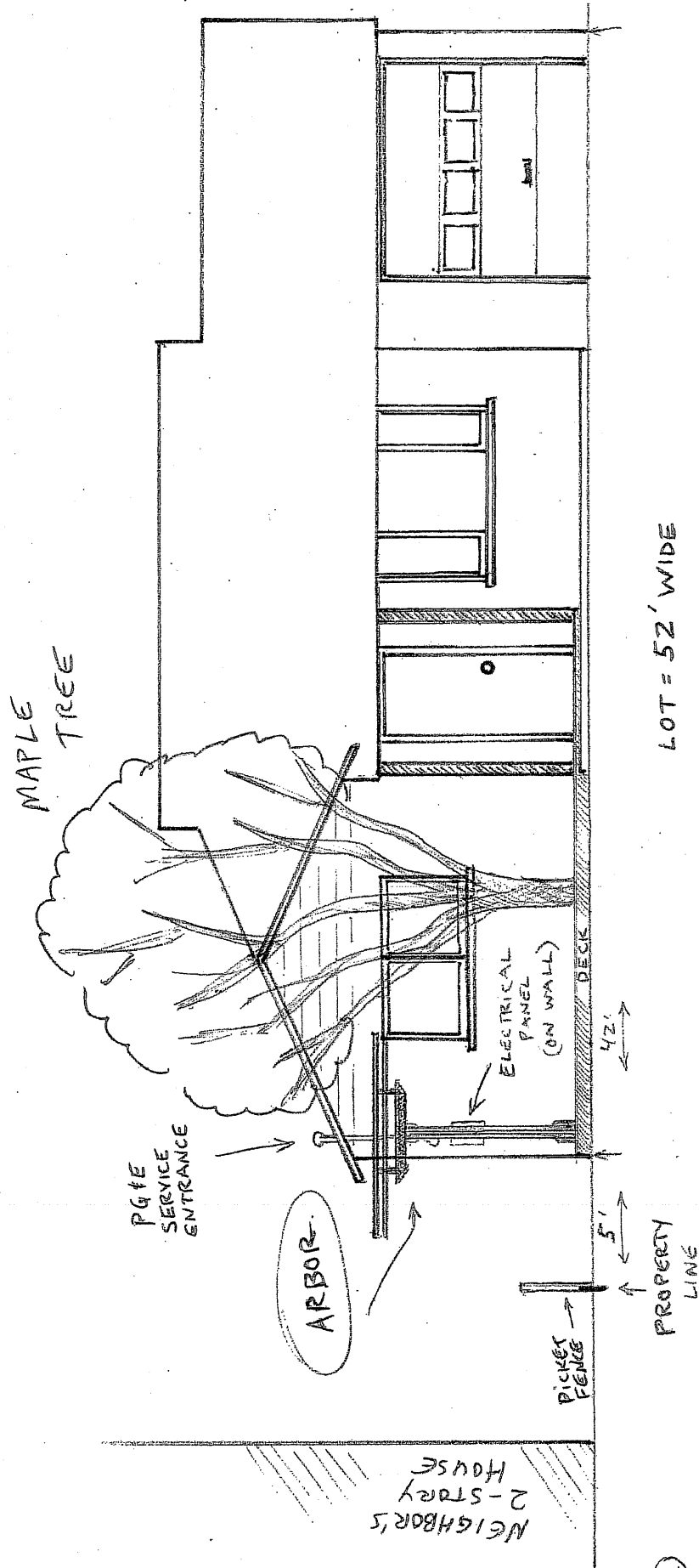
SITE PLAN: 383 STOWELL
APN 204-33-003

ATTACHMENT C
Page 2 of 4

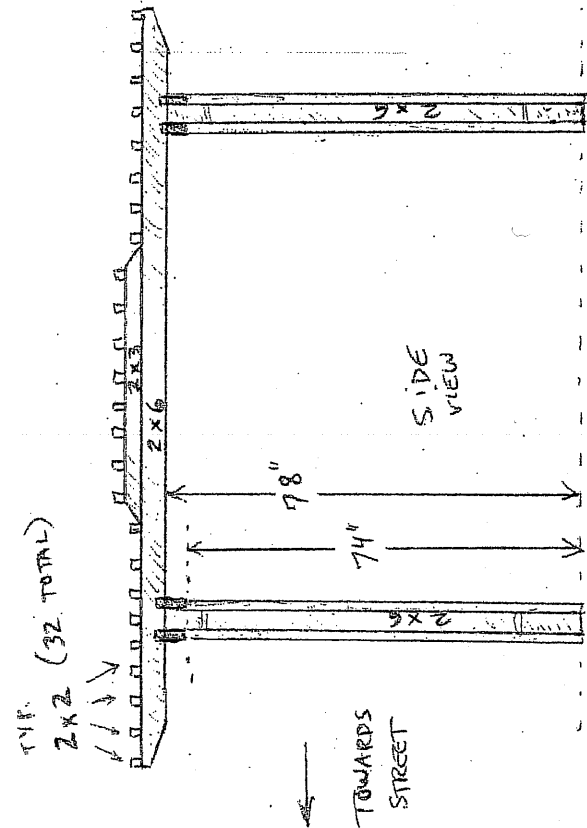


ELEVATION: 383 STONELL AVENUE, 94085

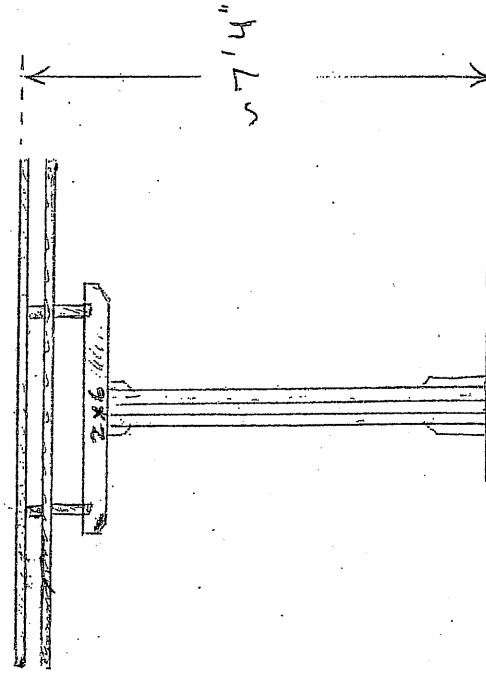
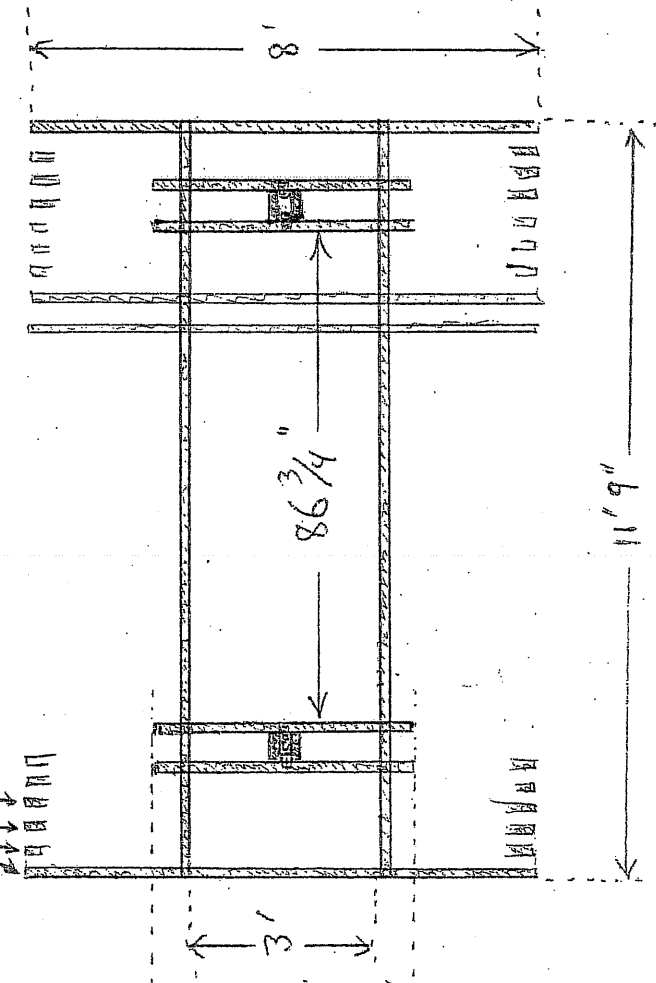
APN 204-33-003



8x12
 REDWOOD ARBOR
 C. HAGGART
 383 STOWELL AVE.
 SUNNYVALE
 94085



8' 2x2 (4x2), 3" SPACING (4 1/2" o.c.)



APPLICATION FOR VARIANCE FOR ARBOR IN FRONT YARD**Craig Haggart & Rebecca Horton, 383 Stowell Avenue 94085 (APN 204-33-003)****Project Description:**

This application is for a variance from Sunnyvale Municipal Code section 19.34.030 to allow an open-air wooden arbor in the front yard of a single-family residential property (R-0 zoning district) at 383 Stowell Avenue. The arbor is partially within a "buildable" area, but one of the vertical support posts encroaches approximately 32 inches into the required 20-foot front setback, and a portion of the open overhead structure extends an additional 28 inches into that area.

The arbor sits on a wooden deck and is made of surfaced and sealed redwood lumber. It comprises two 6x6 vertical posts, lateral and longitudinal 2x6 overhead supports, and horizontal 2x2 "eaves" (see photos/drawings). The 8-foot-long 2x2s cover about 110 square feet, shading the area below about 35% (1.5" actual lumber thickness, spaced 4.5" on center). The maximum height is just over 7 feet.

Size, location, and aesthetics were primary considerations in the design: The area between the two support posts is just large enough for a small table and a few chairs, creating a very pleasant outdoor environment; the supports partially obscure an electrical panel and PG&E meter otherwise in plain view; and the overhead structure diminishes the visual impact of the two-story house next door. Reducing the size of the arbor to fit within the 20-foot setback would make it too small or oddly shaped, and a maple tree to the north prevents changing the arbor's orientation significantly. Finally, unlike a building or other enclosed structure, this arbor maintains the intent of the Municipal Code because it does not actually reduce the size of the required front yard or change its use.

Findings:

1. Strict adherence to the front setback requirement unfairly restricts the owner's ability to create an aesthetically pleasing, reasonably sized open-air structure to create shade, partially obscure the view of an electrical panel and PG&E meter, and reduce the visual impact of an adjacent two-story house. This neighborhood was built in 1942 on lots much smaller than those currently required by Sunnyvale residential standards; the small lot size tends to limit the possibilities for placing such structures within the required front setback. An existing maple tree further restricts the shape and placement of an arbor.
2. Granting this variance will not be detrimental to the neighborhood. The arbor provides a pleasant and attractive shaded area for outdoor seating and decorative plants, it serves to partially obscure an unsightly electrical panel on the front of the house, and it generally enhances the aesthetics of the front yard and house.
3. Granting this variance will maintain the intent of the zoning ordinance. The small open-air wooden arbor provides shade and visual enhancement to the existing front yard and does not negatively alter the use or character of this residential property. It involves a very minor encroachment into the front setback region. In fact, the actual surface area of the front yard is reduced only by the amount of one 6x6 support post -- about one quarter of one square foot. The majority of the structure is merely a shade canopy.

Dear Kelly,

ATTACHMENT E
Page 1 of 3

I really love the landscaping and deckwork that Becky and Craig have done to their home. The arbor is a lovely enhancement to their yard and the neighborhood in general. I believe it has inspired other neighbors to upgrade their yards as well.

Warm Regards,
Sheila Gily 389 Stowell

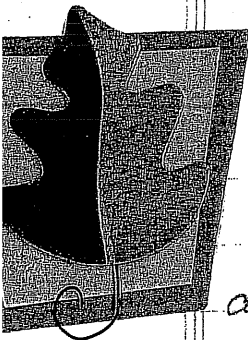
Greetings from

 OCHO LOCO PRESS

Kelly Dieckman,

My Name is KURTIS Young and I own 385 Stowell
I wanted to drop you a note regarding file #0120
(for the Arbor on 383 Stowell Ave). I believe that
a beautiful and tasteful addition to the neighborhood.
Please allow them to keep it. Thank you for your
in this matter.

Kurtis Young



This letter is in behalf of variance permit at 383 Stowell Ave. regarding the arbor set back of 17 feet not 20 feet.

I would like to see the arbor stay where it is. It is really well built and crisp and clean redwood garnished with flower baskets. It is set off with a fitting front porch deck and stylish redwood curved trellis on the fence which is low profile. Looks like "Monet's Bridge". From my house it is just lovely when I sit at my front room window. I probably see it more than anyone, and I'm impressed with it. The hospitable Craig and Becky show me and my family has been often under the arbor sitting and talking. My little granddaughter has enjoyed playing in the arbor setting and I'm enclosing a snapshot of her from when we had cookies and iced tea at Beckys a few months ago. Please consider to not remove the arbor as it is a real decorative feature.

Sincerely,
Ann Williams
378 Stowell Ave

1-1-1-
Kelly Dieckmann.—
I'm writing in
reference to: File
2005-1073, the
arbor on Stowell
Ave. We live next
door to Craig &
Becky and have
absolutely NO obj-
ection to the arbor
which only adds to
the look of the
home & neighborhood.
As fellow homeowners,
we appreciate our
neighbors taking such

care to build a beautiful
arbor & being concerned
about the appearance
of their home.

Please do not require
a change to the current
arbor design or placement.

Thank You!

Alfred & Michele
Duncan
379 Stowell Ave

Phone:

735-0938



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ATTACHMENT

Page

2

of

3